IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 1ST JANUARY 2007 / 11TH PAUSHAM, 1928

WP(C).No. 22108 of 2005(F)

PETITIONER:

N.K.PRABHAKARAN,
S/O.N.SANKARAN, CHIDANGAIL HOUSE,
P.O.PINARAYI, KANNUR DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ
SRI.ANTONY JOSEPH.P.

RESPONDENTS:

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1. THE DISTRICT CO-OPERATIVE BANK,
KANNUR, REPRESENTED BY THE GENERAL MANAGER,
DISTRICT CO-OPERATIVE BANK, KANNUR.

2. THE BRANCH MANAGER,
DISTRICT CO-OPERATIVE BANK,
MAMBRA BRANCH, KANNUR.

3. THE SALE OFFICER,
DISTRICT CO-OPERATIVE BANK,
KANNUR.

4. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), KANNUR.

5. THE ASSISTANT REGISTRAR,
CO-OPERATIVE SOCIETIES, KANNUR.

6. THE REGISTRAR OF CO-OPERATIVE
SOCIETIES, THIRUVANANTHAPURAM.

BY ADV. K.M.MUHAMMED KUNHI SC,KDCO-OP BANKK LTD FOR R1
GOVERNMENT PLEADER P.K. RAVIKRISHNAN FOR R3 TO R6

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF THE NOTICE DT.27.5.2005

EXT.P2- TRUE COPY OF THE UNDATED REPRESENTATION FILED BY THE PETITIONER BEFORE THE SALE OFFICER

EXT.P3- TRUE COPY OF THE REPRESENTATION SENT BY THE PETITIONER ON 26.5.2005 BEFORE THE PRESIDENT, KANNUR JILLA BANK TOGETHER WITH POSTAL RECEIPT AND ACKNOWLEDGMENT CARD

(TRUE COPY)

P. A TO JUDGE

J.M.JAMES, J.

W.P.(C). 22108/2005

Dated this the 1st day of January, 2007

JUDGMENT

The prayer of the writ petitioner, who is a defaulter to the first respondent, Co-operative Bank, is to quash Ext.P1 auction sale notice of the immovable properties.

2. When the matter came up for consideration on 25.7.2005, this Court granted an interim stay of Ext.P1 on condition that " the petitioner pays Rs.2,00,000/- payable on or before 20th of every month, commencing from August, 2005. If any of the payments as aforesaid is not made, this order of stay shall stand recalled immediately".

3. During the hearing, the learned counsel for the first respondent submitted that no amount, as directed above, had been remitted by the writ petitioner and, therefore, there is no stay in operation.

4. The learned counsel for the writ petitioner however, submits that the amount due to the first

respondent may be calculated after hearing him, and the loan amount exempted from penal interest, may be allowed to be paid back in instalments. The learned Government Pleader submits that there is an One Time Settlement facility available, as extended under Circular No.59/2006 dated 30.11.2006.

5. In view of the above facts and submissions, I direct the writ petitioner to approach the first respondent with a representation within ten days from today, requesting to extend all the facilities and benefits available under the One Time Settlement Scheme, as per Circular No.59/2006 dated 30.11.2006.

6. The first respondent shall hear the writ petitioner and calculate the amount in accordance with Circular No.59/2006 and pass appropriate orders on merit. This shall be done within one month from the date of receipt of representation for One Time Settlement. If the petitioner is prepared to sell the property that had been mortgaged with the first respondent, bank, the latter shall allow him to do so as per the procedure, with

the control and supervision of the first respondent, bank.

7. Till the order is passed, as above, by the first respondent, bank, there shall be no coercive actions against the writ petitioner.

The writ petition is disposed of as above.

J.M.JAMES
JUDGE

mrcs